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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,309	06/16/2009	Jong-Hun Ha	0630-2359PUS1	2656
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BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
			EXAMINER	
			HAMO, PATRICK	
			ART UNIT	PAPER NUMBER
			3746	
NOTIFICATION DATE	DELIVERY MODE			
06/16/2009	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>		Application No. 10/539,309	Applicant(s) HA ET AL.
		Examiner PATRICK HAMO	Art Unit 3746
<p><b>–The MAILING DATE of this communication appears on the cover sheet with the correspondence address –</b></p> <p>THE REPLY FILED 01 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.</p> <p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p> <p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p> <p><b>NOTICE OF APPEAL</b></p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p> <p><b>AMENDMENTS</b></p> <p>3. <input type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: _____.</p> <p>Claim(s) rejected: _____.</p> <p>Claim(s) withdrawn from consideration: _____.</p> <p><b>AFFIDAVIT OR OTHER EVIDENCE</b></p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p> <p><b>REQUEST FOR RECONSIDERATION/OTHER</b></p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.</p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.</p> <p>13. <input type="checkbox"/> Other: _____.</p> <p>/Devon C Kramer/ Supervisory Patent Examiner, Art Unit 3746</p>			

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. First, applicant argues that the reference to Ohmart does not disclose a tight contact structure so that friction taking place in a contact surface of the inner body and outer body due to difference in deformation of the inner body and the outer body reduces noise and vibration generated in the chamber. However, at the surfaces of the bodies where they are welded together, there is a very tight contact surface. Furthermore, as discussed in the final rejection, the inner body deforms more than the outer body, and there will certainly be some friction between the bodies at points they contact as well, as friction between bodies in contact is unavoidable. Then the reduction of noise and vibration is an intended result of this friction, and at least some of the reduction of noise and vibration in the reference to Ohmart may be attributed to the friction, even if other means of vibration and noise reduction are intended.

In regard to claims 21 and 23, the applicant argues that the references do not teach an outer layer with a higher thermal expansion coefficient or higher modulus of strain than the inner layer. However, Licentia (GB '996) was relied on for its teaching of a two-layered compressor shell of different materials. As discussed in the prior rejection in regard to the claimed limitations that outer layer has a higher thermal expansion coefficient and modulus of strain, it would have been an obvious matter of engineering design choice to one skilled in the art in the process of material selection.

In regard to claims 4, 5, 9, 10, 16 and 17, the product by process rejection is upheld. In the art, the act of press-fitting generally assured that the two parts being press-fit do not move in relation to each other. The "loose" fit of the two layers of Ohmart allows for only as much movement as necessary to dampen the vibrational noise, just as the present claimed application allows for movement to convert the vibrational energy to thermal energy. Therefore, the process of press-fitting may be used for the applied reference to form a substantially similar product.

In regard to claim 34, the applicant correctly interpreted the examiner's suggestion that the total length may be determined by straightening the concave and convex portions. If this were done, which seems reasonable to the examiner, it is not clear that the outer wall of Ohmart is shorter than the inner wall. It is not "height" which was claimed, but "length."